



# House of Representatives

## File No. 610

General Assembly

February Session, 2004

**(Reprint of File No. 95)**

Substitute House Bill No. 5341  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
April 16, 2004

### **AN ACT CONCERNING THE VALIDATION OF MORTGAGE RELEASES.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. (NEW) (*Effective July 1, 2004*) (a) Notwithstanding the  
2       provisions of chapter 846 of the general statutes, a release of mortgage  
3       executed by any person other than an individual that is invalid  
4       because it is not issued or executed by, or fails to appear in the name of  
5       the record holder of the mortgage on one, two, three or four family  
6       residential real property located in the state of Connecticut including,  
7       but not limited to, a residential unit in any common interest  
8       community, as defined in section 47-202 of the general statutes, shall  
9       be as valid as if it had been issued or executed by, or appeared in the  
10      name of the record holder of such mortgage unless an action  
11      challenging the validity of the release is commenced and a notice of lis  
12      pendens is recorded in the land records of the town where the release  
13      is recorded within five years after the release is recorded, provided an  
14      affidavit is recorded in the land records where the mortgage was  
15      recorded which states the following:

16       (1) The affiant has been the record owner of the real property  
17       described in the mortgage for at least two years prior to the date of the  
18       affidavit;

19       (2) The recording information for the mortgage, any assignments  
20       and release;

21       (3) Since the date of the recording of the release, the affiant has  
22       received no demand for payment of all or any portion of the debt  
23       secured by said mortgage and has received no notice or  
24       communication that would indicate that all or any portion of the  
25       mortgage debt remains due or owing;

26       (4) To the best of the affiant's knowledge and belief, the mortgage  
27       has been paid in full.

28       (b) The provisions of subsection (a) of this section shall not apply to  
29       any release obtained by forgery or fraud.

This act shall take effect as follows:	
Section 1	<i>July 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Banking Dept.	BF - None	None	None

Note: BF=Banking Fund

**Municipal Impact:** None

**Explanation**

The bill modifies the conditions under which a mortgage release is valid. The bill has no fiscal impact on the Banking Department.

House "A" makes technical revisions and has no fiscal impact.

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**OLR BILL ANALYSIS**

sHB 5341 (as amended by House "A")\*

**AN ACT CONCERNING THE VALIDATION OF MORTGAGE RELEASES****SUMMARY:**

This bill validates mortgage releases executed by partnerships, associations, limited liability companies, or corporations that would otherwise be invalid because they were not issued or executed by, or fail to appear in the name of, the record holder of the mortgage on one-to four-family residential real estate in Connecticut. Under the bill, such mortgage releases are valid as if released in the mortgage-holder's name unless (1) an action challenging the validity is brought and notice of the pending litigation is recorded in the town where the release is recorded within five years after the release's recording or (2) the release was obtained by forgery or fraud.

The person executing the mortgage release also must record in the land records where the mortgage was recorded an affidavit stating:

1. the person making the affidavit has been the record owner of the property described in the mortgage for at least the last two years;
2. the recording information for the mortgage, any assignments, and release;
3. since the date the release was recorded, the person has not received a demand for payment of any or all of the debt the mortgage secures and has received no notice or communication indicating that any or all of the mortgage debt remains due or owing; and
4. to the best of his knowledge and belief, the mortgage has been paid in full.

\*House Amendment "A" validates otherwise invalid mortgage releases executed by partnerships, associations, limited liability

companies, or corporations, rather than those executed by someone other than the property's record owner, as the original bill provided. It also extends from two to five years the amount of time a person has to bring an action challenging the validity of the release and to record a notice of lis pendens.

EFFECTIVE DATE: July 1, 2004

## **BACKGROUND**

### ***Legislative History***

The House referred the original version of the bill (File 95) to the Judiciary Committee on March 23 and the Planning and Development Committee on April 6. Those committees favorably reported the bill without change on April 2 and April 7, respectively.

## **COMMITTEE ACTION**

### Banks Committee

Joint Favorable Report

Yea 17      Nay 0

### Judiciary Committee

Joint Favorable Report

Yea 36      Nay 0

### Planning and Development Committee

Joint Favorable Report

Yea 19      Nay 0